

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MICHAEL SMITH,

Plaintiff,

Case No. 06-CV-13155

v.

HONORABLE AVERN COHN

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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**ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING CASE**

This is a Social Security case. Plaintiff Michael Smith filed a pro se complaint against the Commissioner of Social Security (Commissioner) seeking judicial review of the Commissioner's determination to reduce his disability benefits to correct an overpayment. The matter was referred to a magistrate judge, before whom the Commissioner filed a motion to dismiss on the grounds that plaintiff failed to exhaust his administrative remedies. The magistrate judge issued a report and recommendation (MJRR), recommending that the Commissioner's motion be granted.

Plaintiff has filed a letter with attachments objecting to the MJRR. The Court has reviewed plaintiff's submission. The Court agrees with the MJRR. Plaintiff did not exhaust his administrative remedies prior to filing the complaint. As the magistrate judge stated, should plaintiff wish to challenge the Commissioner's decision, "he should now attempt to exhaust his administrative remedies by before the SSA by requesting a

de novo hearing before an ALJ, where he will be given an opportunity to present evidence concerning the alleged overpayment of disability benefits." MJRR at p. 5. Accordingly, the findings and conclusions of the MJRR are adopted as the findings and conclusions of the Court. The Commissioner's motion to dismiss is GRANTED. This case is DISMISSED.

SO ORDERED.

s/Avern Cohn  
AVERN COHN  
UNITED STATES DISTRICT JUDGE

Dated: January 4, 2007

I hereby certify that a copy of the foregoing document was mailed to the parties of record and Michael Smith, 29477 Cherry Hill, Inkster, MI 48141 on this date, January 4, 2007, by electronic and/or ordinary mail.

s/Julie Owens  
Case Manager, (313) 234-5160